

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 Troy Emanuel, Jr.,

4 Plaintiff,

5 v.

6 Cooke, *et al.*,7 Defendants.
8

Case No. 3:23-cv-00564-MMD-CSD

ORDER

9 The Court has already determined that counsel should be appointed and has
10 referred this case to the Pro Bono program. (ECF No. 35.) For the reasons stated
11 below, however, the Court determines that it should instead appoint the Office of
12 the Federal Public Defender. Accordingly, the Court grants the motion for
13 administrative modification of the Court's prior order (ECF No. 40). This order
14 therefore supersedes the prior order of appointment (ECF No. 39).

15 In district courts, the appointment of counsel for persons financially unable to
16 obtain representation in criminal cases is governed by 18 U.S.C. § 3006A. "A person
17 for whom counsel is appointed shall be represented at every stage of the proceedings
18 from his initial appearance before the United States magistrate judge or the court
19 through appeal, including ancillary matters appropriate to the proceedings." 18
20 U.S.C. § 3006A(c). Ancillary matters include proceedings sufficiently related to the
21 underlying criminal case. *See United States v. Martinson*, 809 F.2d 1364, 1370 (9th
22 Cir. 1987). In evaluating the circumstances of this case, the Court notes that
23 Plaintiff is represented by the Office of the Federal Public Defender in a separate
24 suit for habeas corpus relief, *Emanuel Jr. v. Neven et al.*, Case No. 2:16-cv-01368-
25 GMN-EJY. Plaintiff's habeas counsel's case is ancillary to this proceeding as this
26 matter arose from the facts and circumstances surrounding Plaintiff's incarceration
27 at issue in the habeas litigation. Representation by habeas counsel is reasonably

1 necessary to protect Plaintiff's Eighth Amendment right against cruel and unusual
2 punishment and to aid in meaningful preparation of Plaintiff's habeas litigation,
3 and the Court therefore finds it appropriate, under the specific circumstances of this
4 case, to appoint the Office of the Federal Public Defender to represent Plaintiff.

5 For these reasons, the Court APPOINTS the Office of the Federal Public
6 Defender to represent Plaintiff in this matter. The Court INSTRUCTS the Clerk's
7 Office to add the Office of the Federal Public Defender to the service list in this
8 matter, and further, to separately serve this order on the Office of the Federal
9 Public Defender so representation may begin immediately.

10 DATED THIS 27th Day of June 2024.

A handwritten signature in blue ink, appearing to read 'Miranda M. Du', is written over a horizontal line.

MIRANDA M. DU
CHIEF UNITED STATES DISTRICT JUDGE